

NEW-YORK DAILY TRIBUNE, MONDAY, SEPTEMBER 29, 1856.

8.

LAW INTELLIGENCE.

SUPREME COURT—KING COUNTY.—SPECIAL TERM—
Sept. 8.

ALLOWANCE IN A MORTGAGE SUIT—EFFECT OF
TENDER.

The Connecticut River Banking Company agt. James L. Vose.

BROWN, J.—The plaintiffs move for an additional all-waiver, under sections 369 and 369 of the code. The action is brought to foreclose a mortgage for \$10,000. There are 35 defendants. The action is brought to foreclose a mortgage for \$10,000. The motion was granted.

John Hicken agt. Richard Hallinan and John Hicken.

Motion for an injunction restraining the defendant from removing his name from the 29th street, or from the place of business, and other places, on the ground that plaintiff was entitled to interest which he claims in said property. Motion was denied as to the use of the mills, machinery and premises; the rest of the motion reserved for further evidence.

COURT OF COMMON PLEAS—SPECIAL TERM—Sept. 26.—
Before Judge Daly.

Fredrick W. Knapp agt. Jasper W. Gilbert.

Motion to strike out answer of defendant as sham, &c., granted with \$10 costs.

Frederick W. Knapp agt. Edward Kipnick.

Order directing issue to be joined in proceedings under her law.

Nehemiah Hand agt. Henry Chapman.

Order of reference to William Bloomfield, esq.

A. D. Denman agt. Thomas Harvey.

Petition of receiver for leave to commence action granted.

SURROGATE'S COURT—Sept. 27.—Before A. W. Bradford.

The Plaintiff will case was resumed, to-day, and the cross-examination of Mr. Wiley finished. The case was then adjourned to the 1st of November, the cause being engrossed in the Court of Appeals on the 1st of October.

UNITED STATES COMMISSIONERS' OFFICE—Sept. 27.—
Before Commissioner Morton.

Commissioner Morton is engaged in taking testimony on Plaintiff's behalf in the cause of the foreclosing of the title to the property, the subject of a tender to him by the defendant.

The defense is that the tender was for the recovery of money, the tender was accepted only when the sum to be recovered was certain.

In the trial of the cause, there was nothing either in the language or the spirit of this statute applicable to a case like the present. The court in equity were with the sound discretion of the parties. That discretion, however, is not to be exercised in a case like the present, the plaintiff in equity, as to this case, is to be made only when the tender of the party to whom the tender of the party was "certain or involuntary." If the action was for the recovery of money, the tender was accepted only when the sum to be recovered was certain.

The defense is that the tender was not made in the same form as the statute required.

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